



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-912]

Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Notice of Court Decision Not in Harmony with the Results of 2014-2015 Antidumping

Administrative Review; Notice of Amended Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On May 18, 2023, the U.S. Court of International Trade (CIT) issued its final judgment in *Guizhou Tyre Co., Ltd. & Guizhou Tyre Import & Export Co., Ltd., et al. v. United States*, Consol. Court No. 17-00100, Slip Op. 23-79 (CIT 2023) (*Remand Order*), sustaining the U.S. Department of Commerce's (Commerce) second remand results pertaining to the administrative review of the antidumping duty (AD) order on certain new pneumatic off-the-road tires (OTR Tires) from the People's Republic of China (China) covering the period September 1, 2014, through August 31, 2015. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the dumping margin assigned to mandatory respondent, Xuzhou Xugong Tyres Co., Ltd., Armour Rubber Co. Ltd., and Xuzhou Hanbang Tyre Co., Ltd. (collectively, Xugong), as well as all other qualifying separate rate respondents that are plaintiffs in the action (*i.e.*, Qingdao Qihang Tyre Co., Ltd. (Qingdao Qihang), Qingdao Free Trade Zone Full-World International Trading Co., Ltd. (Full World), Trelleborg Wheel Systems (Xingtai) China, Co., Ltd. (Trelleborg), and Weihai Zhongwei Rubber Co., Ltd. (Zhongwei)).

DATES: Applicable May 28, 2023.

FOR FURTHER INFORMATION CONTACT: Brendan Quinn, Program Manager,
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SUPPLEMENTARY INFORMATION:

Background

On April 21, 2017, Commerce published its *Final Results* in the 2014-2015 AD administrative review of OTR Tires from China.¹ After correcting ministerial errors contained in the *Final Results*, on June 14, 2017, Commerce published the *Amended Final Results*, and calculated a weighted-average dumping margin of 33.14 percent for Xugong, which was also used as the separate rate applicable to various respondents not individually examined in the administrative review, including Qingdao Qihang, Full World, Trelleborg, and Zhongwei.² Further, in the *Final Results* and *Amended Final Results*, Commerce determined that certain companies, including Guizhou Tyre Co Ltd. (GTC) and Guizhou Tyre Import and Export Co., Ltd. (GTCIE) (collectively, GTC/GTCIE) and Aeolus Tyre Co., Ltd., are part of the China-wide entity.³

Aeolus, Full World, GTC/GTCIE, Qingdao Qihang, Trelleborg, Xugong, and Zhongwei, appealed Commerce's *Final Results/Amended Final Results*. The CIT remanded the *Final Results/Amended Final Results* to Commerce to: 1) reconsider its separate rate determination as to GTC and Aeolus; 2) redetermine Xugong's weighted average dumping margin without making deductions for value-added tax (VAT); and 3) apply any relief that resulted from the recalculation of Xugong's individually-determined rate to Full World, Qingdao, Trelleborg, and

¹ See *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014–2015*, 82 FR 18733 (April 21, 2017) (*Final Results*), and accompanying Issues and Decision Memorandum.

² See *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review; 2014- 2015*, 82 FR 27224 (June 14, 2017) (*Amended Final Results*).

³ *Id.*

Zhongwei.⁴ In the First Remand Redetermination, issued in September 2019, Commerce: 1) recalculated export price (EP) and constructed export price (CEP) for Xugong without making deductions for Chinese VAT, resulting in a 16.78% weighted-average dumping margin for Xugong, which is also assigned to all other qualifying separate rate respondents that are plaintiffs in the action (*i.e.*, Full World, Qingdao Qihang, Trelleborg, and Zhongwei); and 2) reconsidered the record with respect to the decision to deny separate rate status to Aeolus and GTC/GTCIE in the *Final Results* and *Amended Final Results*, but continued to determine that both Aeolus and GTC failed to rebut the presumption of government control and remained ineligible for a separate rate.⁵

The CIT sustained, in part, Commerce's determination to recalculate EP and CEP for Xugong without making deductions for Chinese VAT, and the resulting redetermination of the weighted-average dumping margins for Xugong and for all other qualifying separate rate respondents, but remanded for a second time the decisions to continue to deny separate-rate status to Aeolus and GTC/GTCIE.⁶ In its second remand redetermination, issued in September 2021, Commerce reconsidered the record evidence with respect to each prong of the enumerated *de facto* separate rate criteria in accordance with the *Guizhou Tyre II* opinion, and continued to find that both Aeolus and GTC/GTCIE failed to rebut at least one of the four *de facto* criteria and, thus, continued to be ineligible for a separate rate.⁷ On May 18, 2023, the CIT sustained Commerce's final redetermination.⁸

⁴ See *Guizhou Tyre Co., Ltd. & Guizhou Tyre Import & Export Co., Ltd., et al. v. United States*, 389 F. Supp. 3d 1350 (CIT 2019) (*Guizhou Tyre I*).

⁵ See *Final Results of Redetermination Pursuant to Court Remand, Guizhou Tyre Co., Ltd. & Guizhou Tyre Import & Export Co., Ltd., et al. v. United States*, Court No. 17-00100, Slip Op. 19-64 (CIT 2019), dated September 23, 2019 (*First Remand Redetermination*).

⁶ See *Guizhou Tyre Co., Ltd. & Guizhou Tyre Import & Export Co., Ltd., et al. v. United States*, 519 F. Supp. 3d 1248 (CIT 2021) (*Guizhou Tyre II*).

⁷ See *Final Results of Redetermination Pursuant to Court Remand, Guizhou Tyre Co., Ltd. & Guizhou Tyre Import & Export Co., Ltd., et al. v. United States*, Court No. 17-00100, Slip Op. 21-60 (CIT 2021), dated September 24, 2021 (*Second Remand Redetermination*).

⁸ See *Remand Order*.

Timken Notice

In its decision in *Timken*,⁹ as clarified by *Diamond Sawblades*,¹⁰ the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s May 18, 2023, judgment constitutes a final decision of the CIT that is not in harmony with Commerce’s *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* and *Amended Final Results* with respect to mandatory respondent Xugong and all other qualifying separate rate respondents that are plaintiffs in the action (*i.e.*, Full World, Qingdao Qihang, Trelleborg, and Zhongwei) as follows:

Exporter	Weighted-Average Dumping Margin (percent)
Xuzhou Xugong Tyres Co., Ltd., Armour Rubber Company Ltd., or Xuzhou Hanbang Tyre Co., Ltd	16.78
Weihai Zhongwei Rubber Co., Ltd	16.78
Qingdao Qihang Tyre Co., Ltd.	16.78
Qingdao Free Trade Zone Full- World International Trading Co., Ltd	16.78
Trelleborg Wheel Systems (Xingtai) China, Co. Ltd	16.78

⁹ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹⁰ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

Cash Deposit Requirements

Because the AD order on OTR Tires from China was revoked,¹¹ Commerce will not issue cash deposit instructions as a result of this Court decision.

Liquidation of Suspended Entries

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise exported by the companies listed above in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis*. Where an import-specific *ad valorem* assessment rate is zero or *de minimis*,¹² we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: May 26, 2023.

Lisa W. Wang,
Assistant Secretary
for Enforcement and Compliance.

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¹¹ See *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of Sunset Reviews and Revocation of Antidumping Duty and Countervailing Duty Orders*, 84 FR 20616 (May 10, 2019).

¹² See 19 CFR 351.106(c)(2).